

# **Exhibit A**



**John T. Gutkoski**

**PARTNER**

**t:** 617-443-9292  
**f:** 617-443-0004  
**e:** [jgutkoski@sunsteinlaw.com](mailto:jgutkoski@sunsteinlaw.com)

**New York University School of Law**  
J.D.

**Boston University**  
B.A., *magna cum laude*

John is a patent and intellectual property trial attorney representing clients as lead trial counsel in life sciences and high technology matters.

John's extensive patent litigation experience includes representing pharmaceutical companies in Hatch-Waxman proceedings. He has tried numerous cases to judges and juries across the country, including representing clients successfully in Delaware, Texas, Illinois, Wisconsin, North Carolina, New Jersey, California, Massachusetts, New York and before the International Trade Commission.

His cases have involved pharmaceuticals, radiotherapeutics, nanotechnology, medical devices, synthetic latex, optics, collagen production, intravenous pumps, banking and finance, semiconductors, analog and digital circuitry, smart phones, telecommunications, network architecture, imaging, sound waves, software, and electronic data.

John has been repeatedly named one of the World's Leading Patent Practitioners for Patent Litigation by *IAM Patent 1000*. Their recent ranking noted that "He is one of the sharpest and most adaptable patent litigators out there ..." He has been named *Benchmark Litigation's* "Local Litigation Star," and has also been recognized by *Super Lawyers*.

**Practice Areas**

Litigation Practice

**Education**

**New York University School of Law**  
J.D.  
**Boston University**  
B.A., *magna cum laude*

## Representative Matters

- Won a rare, complete defense jury verdict of non- infringement and invalidity in the Eastern District of Texas where the jury found the asserted patents concerning the interaction of light and tissue to be anticipated and rendered obvious by four separate combinations of prior art.
- Led the defense trial team in defeating a claim for more than \$600 million against a leading national bank and financial services holding company in the only one of the infamous Data Treasury “troll” cases to go to verdict over check imaging patents.
- Won a complete jury verdict of willful infringement of multiple patents and a \$61 million enhanced damages award for the industry leader in coaxial cable connectors, against its leading competitor in the Northern District of New York.
- Served as lead counsel for multi-patent Hatch Waxman litigation representing the pharmaceutical manufacturer of Mucinex against generic challengers in the U.S. District Court for the District of Delaware.
- Successfully defended the maker of Durex brand condoms against claims of infringing several patents asserted by the competitor brand Lifestyles in the District of Delaware.
- Won a jury verdict as lead counsel finding the misappropriation of trade secrets, tortious interference, and unfair and deceptive trade practices in the District of Massachusetts for the manufacturer of Near Infra-Red Spectroscopy Analyzers against a major competitor, after having previously secured a preliminary injunction in the case.
- Obtained landmark decision in *ProCD v. Zeidenberg*, 86 F.3d 1447, the first case in the country to enforce “shrink-wrap,” “clickon” and “Web-wrap” licenses and contracts for protecting software and electronic data.
- Defeated seven photolithography and nanotechnology patents after month-long Section 337 trial before the International Trade Commission, preserving almost \$2 billion in annual sales; related litigation with five additional patents in the U.S. District Court for the Northern District of California then settled favorably.
- Represented the owner of industry leading payroll-processing and financial management technology against competitors for infringement in parallel litigations in the District of Minnesota and Minnesota state court.
- Served as lead counsel for the pharmaceutical manufacturer of a radiotherapeutic drug designed to treat metastatic carcinoid and pancreatic neuroendocrine tumors in a case before the District of Massachusetts involving European Union patent development rights, which settled favorably following extensive summary judgment briefing.
- Represented a major pharmaceutical company in asserting claims against a competitor for the breach of a settlement agreement resolving rights from an ANDA patent litigation and related patent- based antitrust litigation.
- Represented a leading company in Near Infra-red Spectroscopy technology asserting trade secret misappropriation claims against a competitor after obtaining a preliminary injunction against the competitor and its employees in the District of Massachusetts.

- Defended a developer of robotic inventory control and management systems in license and trade secret dispute pending in the District of Utah.
- Successfully represented industry leader asserting telecommunication and data transmission patents against a competitor before the Eastern District of Arkansas achieving settlement after Markman hearing.
- Prevailed as lead trial counsel for the plaintiff in a scanning technology dispute; recovered both actual and multiple damages for unfair and deceptive trade practices in Boston.
- Served as lead trial counsel for an international intravenous pump manufacturer asserting multiple patents against key competitors before the Northern District of Illinois.
- Served as co-lead trial counsel for a computer chip designer and manufacturer suing a former employee and a competitor for the theft of confidential semiconductor schematics and trade secrets. Following an initial trial in North Carolina state court and appeal, the case settled favorably.
- Represented the owner of laser eye surgery patents in separate patent infringement matters leading to a \$17 million plaintiff's jury verdict in the District of Massachusetts and the competitor defendant forced into bankruptcy and going out of business in the second case in the District of Delaware.
- Represented as lead counsel a data storage leader obtaining favorable settlements against infringement claims in multiple matters before the Eastern District of Texas.
- Served as co-trial counsel for the defense of all New England electric utilities in a hydro-electric technology dispute exceeding \$100 million.
- Successfully represented a leading manufacturer of proton exchange membrane electrolysis devices in a dispute before the District of Massachusetts.
- Prosecuted a trademark action in the Central District of California for false advertising and grey market sales of discarded materials as functional semiconductor components, securing on the eve of trial a favorable settlement and the seizure of all offending materials.
- Secured a favorable appeal and established the First Circuit's seminal opinion against trial by ambush.
- Obtained summary judgments of validity, enforceability and infringement for a patentee in the Central District of California involving electronic temperature monitors.
- Represented a pharmaceutical research and development company and its manufacturer of a wound treatment product against claims of trade secret misappropriation, breach of contract and related claims in the District of Massachusetts.

## Professional and Community Involvement

- American Bar Association
- American Intellectual Property Law Association

- Boston Bar Association
- Boston Patent Law Association
- Federal Circuit Bar Association
- Innovation American Inn of Court, Member
- Intellectual Property Owners Association
- Massachusetts Bar Association
- Order of the Barristers

## Publications & Speaking

- Panel Member - American Bar Association, "What Can Legal Analytics Do For Me?"  
March 10, 2022
- Quoted: US Supreme Court Upholds Disputed Language in Patent Law, Giving Generic Drug Makers a Big Win, STAT, 01/22/19
- Quoted: Supreme Court to Decide a Patent Case with Big Implications for Small Drug Makers, STAT, 12/06/18
- Quoted: Fed. Circ. May Fill In Blanks On New Indefiniteness Rule, Law360, 10/27/14
- Quoted: Post-Nautilus Most Indefinite Patent Challenges Fail, Law360, 09/16/14
- Quoted: Software Patent Mess Hits High Court with WildTangent Case, Law360, 08/26/13
- Quoted: Attorneys Discuss Impact of CLS Bank Decision, Law360, 05/13/13
- Halo and Stryker at the Supreme Court: Will the Essential Questions of Timing for Willfulness Be Left Unanswered? Chapter in Inside the Minds "The Impact of Recent Patent Law Cases and Developments, John T. Gutkoski, 2016 Ed., Thompson Reuters / Aspatore Books

## Honors

- Recommended Individual for Patent Litigation by *IAM Patent 1000*
- Named a "Litigation Star" by *Benchmark Litigation*
- Recognized by Thomson Reuters as a *Super Lawyer*

## Bar and Court Admissions

- Massachusetts
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Ninth Circuit

- U.S. District Court for the District of Massachusetts
- U.S. District Court for the Eastern District of Texas